

sensitivity of or the applicability of export controls to technical data proposed for public disclosure.

(g) Approve release of classified or controlled unclassified DoD information to foreign representatives when such release promotes mutual security or advances the interests of an international military agreement or understanding in accordance with foreign disclosure policies of the Department of Defense. Presentation of such information at technical meetings attended by foreign representatives is appropriate when the release is made under the terms of existing security arrangements and when the Department of Defense and receiving government have established an understanding or agreement in that specific scientific or technical area.

(h) Refrain from interfering with the planning and organizing of meetings sponsored and conducted by non-government organizations. The type and level of DoD participation in such meetings will be determined taking account of such factors as benefit to the Department of Defense and how the meetings are being conducted.

#### § 249.5 Procedures.

(a) *General.* Conferences organized by DoD Components, DoD contractors, scientific and engineering societies, and/or professional associations, among others, can enhance the value of research and development sponsored by the Federal Government, and in such cases require full cooperation of all involved parties to obtain maximum benefits. Every effort should be made to develop presentations that are appropriate for delivery to the widest appropriate audience consistent with the interests of national security. In general, national security concerns related to the disclosure of DoD scientific and technical information at meetings are influenced by two mutually dependent factors; i.e. the sensitivity of the material to be presented, and the identity of proposed recipients of the material. These considerations and their impact on proposed meetings can be evaluated only through consultation among authors, conference organizers, and officials responsible for authorizing release of DoD information. The purpose

of this consultation is to ascertain which combination of factors will support the most productive exchange of information consistent with U.S. laws and the requirements of national security. Interaction among concerned parties should commence at least six months before the meeting date.

(b) *Information to be presented.* Possibilities range from completely unclassified/unlimited through classified information. Other considerations having an impact on meeting organization include, but are not limited to, proprietary data, export-controlled data, Privacy Act information, and foreign government-provided data.

(1) Classified information may be presented only at meetings organized in accordance with DoD Directive 5200.12.<sup>2</sup>

(2) Unclassified export-controlled DoD technical data may be presented only in sessions where recipients are eligible to receive such data as established by 32 CFR part 250.

(3) Presentation of proprietary information, privacy data, and foreign government-provided data requires approval of the party controlling that information.

(c) *Location of meetings and access controls.* To a large degree location of and access to meetings are dependent on the type of material to be presented.

(1) Papers which have been cleared for public release may be presented at any location and before any audience.

(2) Criteria established by 32 CFR part 250 for releasing unclassified documents containing unclassified export-controlled DoD technical data also are applicable to presentations containing such data. Unclassified export-controlled DoD technical data may be released to:

(i) United States and Canadian government officials, with the understanding that the information is to be used for official government purposes only. Technical data that falls outside the exemptions for export to Canada in United States export regulations may not be transferred under this and the following provision.

<sup>2</sup>See footnote 1 to § 249.1.

(ii) United States and Canadian citizens and resident aliens when disclosure is subject to the terms of a current (DD Form 2345) “Militarily Critical Technical Data Agreement.”

(iii) Foreign nationals and United States citizens acting as representatives of foreign interests where disclosure is made in accordance with a license, approval, or exemption under the International Traffic in Arms Regulations or the Export Administration Regulations.

(3) Non-government organizations who organize meetings in the United States at which unclassified export-controlled DoD technical data is to be presented will be required to ensure that physical access to the presentations is limited to those eligible to receive such data (as described in paragraph (c)(2) of this section) before being permitted to present such data.

(4) Meetings sponsored by a United States Government agency at which unclassified export-controlled DoD technical data is to be presented may be held in any location in the United States when control of physical access to the sessions is provided by a United States Government employee or a contractor specifically tasked by Department of Defense for that duty.

(5) Presentation of unclassified export-controlled DoD technical data in meetings held outside the United States may be permitted on a case-by-case basis after review of the situation by officials authorized to do so by the Director of Defense Research and Engineering, Office of the Under Secretary of Defense (Acquisition) or heads of DoD Components.

(6) When it is necessary to limit access to presentations of DoD-related scientific and technical papers, and private or professional organizations are unwilling or unable to provide required controls, DoD Components may, at their discretion, conduct meetings which correlate in place and topic with open meetings of such societies to take advantage of the fact that interested parties are already gathered.

(7) Classified information may be presented only at meetings held in a secure government or cleared contractor facility, unless a waiver has been granted in accordance with DoD

Directive 5200.12. Personnel access controls for classified meetings also are specified in DoD Directive 5200.12.

(d) *Foreign representative access to meetings.* (1) For classified meetings sponsored by the Department of Defense and conducted at a contractor facility, guidelines for foreign participation are established in DoD Directive 5230.11<sup>3</sup> and DoD Instruction 5230.20.<sup>4</sup> Guidelines for the reporting of foreign participation in classified meetings are contained in DoD Directive 5200.12.

(2) For unclassified meetings sponsored and conducted by organizations other than the Department of Defense, the sole responsibility of determining whether foreign access is appropriate rests with the sponsor. The level and type of DoD participation in the meeting shall take into account the presence of foreign representatives, if any.

(3) In order to advance the interests of an international military agreement or understanding, the Department of Defense may wish to release to certain foreign nationals unclassified export-controlled DoD technical data being presented at unclassified, restricted access meetings sponsored and conducted by non-government societies and associations. Release in such cases by Department of Defense shall be pursuant to appropriate exemptions to the International Traffic in Arms Regulations (22 CFR part 126), which relieves the society or association from responsibility to obtain export approvals for these presentations. DoD sponsorship is for the sole purpose of granting access to DoD-sponsored technical information. When societies or associations agree to DoD sponsorship of foreign attendance under these circumstances, the visit request procedures established in DoD Instruction 5230.20 shall be used to obtain and process requests from foreign representatives for sponsorship, and to inform the requestor and the meeting sponsor of the decision to release the information and conditions pertaining to such release.

(e) *Clearance for public release.* A review is required by DoD Directive 5230.9<sup>5</sup> for all public releases by DoD

<sup>3</sup>See footnote 1 to § 249.1.

<sup>4</sup>See footnote 1 to § 249.1.

<sup>5</sup>See footnote 1 to § 249.1.

personnel, including all presentations from DoD laboratories. DoD contractors are required to submit proposed presentations for review if that is a specific contractual requirement. Papers resulting from unclassified contracted fundamental research are exempt from prepublication controls and this review requirement.

(1) Proposed presentations shall be reviewed to:

(i) Determine what information, if any, in the submitted paper and/or abstract is subject to security classification, is subject to withholding from public disclosure under 32 CFR part 250 or is otherwise restricted by statute, regulation or DoD policy.

(ii) Recommend specific changes, if any, to allow the paper to be presented as requested.

(iii) Indicate on the document its releasability in original and amended versions.

(iv) Provide information on appeal procedures to be followed if requested clearance is denied.

(2) Reviews shall be completed as speedily as possible after receipt of the document by an appropriate public clearance authority. If a review cannot be completed in a timely manner, an explanation shall be provided. Every effort shall be made to complete the review in:

(i) Ten working days for all abstracts.

(ii) Twenty working days for papers submitted for presentation at sessions that will have unlimited access.

(iii) Thirty working days for papers submitted for presentation at unclassified sessions that will have limited access.

(iv) Thirty working days for papers submitted for presentation at sessions that will be classified.

(f) *Voluntary submissions.* Authors or organizations not subject to mandatory reviews may submit their papers to DoD activities to obtain advice on national security concerns. Resources permitting, DoD public release activities shall arrange review of the papers and

(1) Inform the author that the Department of Defense has no objection to public presentation or

(2) Inform the author that the Department of Defense advises that presentation in a public forum would not be in the interest of national security, and provide appropriate reasons for the determination. The clearance for public presentation, paragraph (f)(1) of this section, satisfies an exemption from requirements for government review under the International Traffic in Arms Regulations. The latter determination, paragraph (f)(2) of this section, does not legally bar presentation. It is an advisory statement that, for the presentation concerned, Department of Defense is not providing the authority for public release. Such DoD action does not preclude recourse by the author through normal State Department export license procedures.

(g) *Submission procedures.* (1) Authors shall submit full text and/or abstract of paper for review before submitting it to conference organizers. Clearance of abstract does not satisfy any requirement for clearance of the full paper. Requests for review shall identify the conference sponsor(s), site, and access restrictions specified by the session organizers, and shall state whether the paper is for presentation at a session that is to be unclassified with unlimited access, unclassified with limited access, or classified. Level of classification and access restrictions shall be specified, where appropriate.

(2) Papers shall be submitted for public and/or foreign disclosure clearance in sufficient time to allow adequate review and possible revision. Authors should allow adequate time for their presentation to reach the appropriate review authority in addition to the review targets set in paragraph (e)(2) of this section.

(3) At time of submission of the full text of the presentation to the Conference Program Committee, authors should state that their papers have been approved for presentation at the meeting and specify the security level of degree of access control required. When submitting abstracts that have been cleared for release, authors should indicate when and what kind of approval is expected on the presentation in its final form.

## § 249.6

(h) In accordance with DoD Directive 3200.12, copies of proceedings and/or reprints of papers sponsored by the Department of Defense for all scientific and technical meetings will be provided to the Defense Technical Information Center, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304 for secondary distribution.

### § 249.6 Responsibilities.

(a) The *Under Secretary of Defense for Acquisition* (USD(A)) shall be responsible for implementing this part.

(b) The *Deputy Under Secretary of Defense for Research and Advanced Technology* shall:

(1) Administer and monitor compliance with this part.

(2) Provide, when necessary, technical assistance to DoD Components in determining sufficiency of protection of unclassified technical information that is to be presented at meetings.

(3) Provide, upon request, information and advice regarding controls on unclassified DoD information to scientific and engineering societies and professional associations.

(c) The *Under Secretary of Defense for Policy* (USD(P)) shall develop and promulgate, as required, policy guidance to DoD Components for implementing this instruction.

(d) The *Deputy Under Secretary for Defense (Policy)* (DUSD(P)) shall establish and monitor compliance with policies and procedures for disclosure of classified information at meetings.

(e) The *Heads of DoD Components* shall:

(1) Promulgate this part within 180 days.

(2) Designate an individual who will be responsible for reviewing and approving requests for export-controlled meetings outside the United States, and for ensuring compliance with this part.

## PART 250—WITHHOLDING OF UNCLASSIFIED TECHNICAL DATA FROM PUBLIC DISCLOSURE

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250.9 Notice to accompany the dissemination of export-controlled technical data.

AUTHORITY: Sec. 1217, Pub. L. 98-94, (10 U.S.C. 140c).

SOURCE: 49 FR 48041, Dec. 10, 1984, unless otherwise noted.

### § 250.1 Purpose.

This part establishes policy, prescribes procedures, and assigns responsibilities for the dissemination and withholding of technical data.

### § 250.2 Applicability and scope.

(a) This part applies to:

(1) All unclassified technical data with military or space application in the possession of, or under the control of, a DoD Component which may not be exported lawfully without an approval, authorization, or license under E.O. 12470 or the Arms Export Control Act. However, the application of this part is limited only to such technical data that disclose critical technology with military or space application. The release of other technical data shall be accomplished in accordance with DoD Instruction 5200.21 and DoD 5400.7-R.

(2) The Office of the Secretary of Defense (OSD) and activities support administratively by OSD, the Military Departments, the Organization of the Joint Chiefs of Staff, the Defense Agencies, and the Unified and Specified Commands (hereafter referred to collectively as “DoD Components”).

(b) This part does not:

(1) Modify or supplant the regulations promulgated under E.O. 12470 or the Arms Export Control Act governing the export of technical data, that is, 15 CFR part 379 of the Export Administration Regulations (EAR) and 22 CFR part 125 of the International Traffic in Arms Regulations (ITAR).

(2) Introduce any additional controls on the dissemination of technical data by private enterprises or individuals beyond those specified by export control laws and regulations or in contracts or other mutual agreements, including certifications made pursuant to § 250.3(a). Accordingly, the mere fact

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